

REMARKS

Applicants respectfully request reconsideration of this application as amended. Claims 1-5, 9-12, 16-18, and 25-30 have been canceled, claims 6, 13, 19, and 22 have been amended, and claims 31-39 have been added. Therefore, claims 6-8, 13-15, 19-24, and 31-39 are presented for examination.

35 U.S.C. §102(b) Rejections

Saito

The Examiner has rejected claims 1, 3-9, 11-14, 16, 17, 19, 20, and 22-30 under 35 U.S.C. §102(b) as being anticipated by Saito (U.S. Patent Number 6,002,772). The cancellation of some of these claims renders the rejection of those claims moot. The following argument applies to the remaining claims.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP §2131.

Saito does not teach or disclose "transferring the encrypted content along with the encrypted title key to the customer" as required by, for example, claim 1, and "encrypted content is stored on a storage medium having a customer I.D. associated with a customer requesting the content, a Media Key block (MKB), and the title key that is encrypted (encrypted title key) with a customer I.D." as required by, for example, claim 13. Each of the other pending independent

claims recite limitations that are similar to these limitations of claim 1 or claim 13, although some differences may exist among the limitations of the other pending independent claims. These similar limitations nevertheless patentably distinguish the claims over Saito.

Saito discloses a cryptography and electronic watermark technique to protect data (see Saito, for example, Abstract). In Saito, data content may be transferred to a user as follows (see Saito, column 6, line 36 – column 7 line 19):

1. A data management center manages the transfer of user data. A data management center may comprise a data center and a key center. User data is stored at a data center.
2. A user may specify data content name to a key center, and present user data and a public key of the user. The user also requests that a secret key be distributed to the user for decryption.
3. The key center generates the secret key and stores it with the data content name, user data, and public key. The secret key is also encrypted using the public key. The secret key is distributed to the user.
4. Using a user private key, the user decrypts the secret key.
5. The user may request the data content from the data center by presenting the user data and data content name.
6. The data center transfers the user data and the data content name to the key center and asks for the secret key to be transferred to the data center.

7. The key center transfers the secret key to the data center.

8. The data center encrypts the user data using the public key of the data center, and the user data is encrypted and entered as an electronic watermark of the data content.

9. The user decrypts the encrypted electronic watermarked data content using the secret key.

Saito, however, does not disclose "transferring the encrypted content along with the encrypted title key to the customer" as required by, for example, claim 1. In Saito, encrypted secret keys are distributed to the user (Saito, column 7, lines 1-2), and later the data content is watermarked and transferred to the user (Saito, column 7, line 56 – column 8, line 19). In Saito, therefore, the encrypted content is not sent with the encrypted title key to the customer. This distinction, however, is not merely trivial. Since claims of the subject application require that the encrypted content be sent with the encrypted title key to the customer, the process is much faster than that of Saito. This, in turn, results in advantages of distributing content.

Saito furthermore does not disclose that the "encrypted content is stored on a storage medium having a customer I.D. associated with a customer requesting the content, a Media Key block (MKB), and the title key is encrypted (encrypted title key) with a customer I.D." as required by, for example, claim 13. Instead, in Saito, data content is stored in the storage unit, where it can be re-encrypted for distribution to other users (Saito, column 8, lines 23 – 54).

Nowhere in Saito, however, is it disclosed that other information is stored in the storage unit.

Therefore, Saito does not disclose each and every element and limitation of the rejected claims. Consequently, the Examiner has not succeeded in establishing a *prima facie* case of anticipation, and the Applicants respectfully request that the Examiner withdraw his rejection of these claims.

35 U.S.C. §102(b) Rejections

Saito

The Examiner has rejected claims 2, 10, 15, 18, and 21 under 35 U.S.C. §103(a) as being unpatentable over Saito. The cancellation of some of these claims renders the rejection of those claims moot. The following argument applies to the remaining claims.

In order to establish a *prima facie* case of obviousness:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." (Emphasis added). *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Manual of Patent Examining Procedure (MPEP), 8th Edition, August 2001, §2143.

Applicants respectfully submit that the Examiner has not established a prima facie case of obviousness because there is no suggestion or motivation in Saito for modification.

There is no suggestion or motivation in Saito for modification

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). MPEP §2143.01. Furthermore, though a combined element may be a "technologically simple concept", the reference must still provide the motivation for the combination. (*In re Kotzah*, 217 F.3d at 1371, 55 USPQ2d at 1318.) MPEP §2143.01.

Saito teaches a data content distribution system in which multiple users can access digital content. In Saito, therefore, data content is transferred from a data management center having a data center. In this manner, the data management center can control data accesses to the multiple users. (See Saito, column 5, lines 35-50.) In Saito, therefore, there would be no desire or need for modification of the system so that the encrypted content and encrypted title key be transferred to a requesting user, or that the encrypted content and encrypted title key (amongst other information) be stored on a storage medium.

Furthermore, since claims 15 and 21 depend, directly or indirectly, from independent claims 13 and 19, and therefore inherit the limitations of those claims, and since it is believed that claims 13 and 19 are distinguished over the

prior art as discussed above, it is respectfully submitted that claims 15 and 21 are distinguished over the prior art as well.

Accordingly, Applicants respectfully submit that claims 15 and 21 are not unpatentable over Saito under 35 U.S.C. §103(a). Therefore, Applicants respectfully request that the Examiner withdraw his rejection of claims 15 and 21.

CONCLUSION

Applicants respectfully submit that all of the Examiner's rejections have been overcome, and that the claims, as amended, are in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.

The Examiner is invited to initiate an interview with the undersigned by calling 949-498-0601 if the Examiner believes that such an interview will advance prosecution of this application.

Request for an Extension of Time

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 50-0221.

Respectfully submitted,

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AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to FIG. 1. This sheet replaces the original sheet including FIG. 1. In the attached FIG. 1, extraneous reference numerals have been removed or amended so that the reference numerals of the drawing conform to the Specification of the subject application.